

**State of California**

**Before the State Water Resources Control Board**

**Oroville Facility of the State Water Project**

**Oroville Project 2100 (aka Oroville FERC Project No. 2100)**

**North Fork Feather River; Middle Fork Feather River; South Fork Feather River;  
West Branch Feather River, Main Stem Feather River, and Bay Delta Estuary**

**Draft Water Quality Certification for the Relicensing of the Oroville Project 2100 –  
Board Meeting of August 3, 2010**

**Formal Comments by the California Fisheries and Water Unlimited**

**The following are the formal comments of the California Fisheries and Water Unlimited for the draft water quality certification for the Oroville Facility of the State Water Project, Oroville Project 2100:**

- 1. I have reviewed the public notice of July 2, 2010 regarding the draft water quality certification for the Oroville Facility of the State Water Project (aka Oroville Project 2100).**
- 2. I submitted comments to Russ Kanz of the Division of Water Rights regarding the water quality certification process for the Oroville Project 2100 but Mr. Kanz failed to provide me with the notice of July 2, 2010 regarding draft water quality certification and any comments I may want to submit. I also did not receive public notice or a copy of the draft CEQA document for water quality certification from Russ Kanz or the Division of Water Rights or the California Department of Water Resources. The question is what are the names of the parties that received the draft water quality certification notice and also the CEQA notice for said water quality certification. A handful?**
- 3. The Division of Water Rights, State Water Resources Control Board, and the California Department of Water Resources have a long-term in-house working relationship where the State Water Resources Control Board approves all petitions filed by the California of Water Resources without exception and without protection measures for public trust fishery resources. I reference water transfers using the State Pumps (FERC Project 2426).**
- 4. The State Water Resources Control and its staff have not taken enforcement actions against the California Department of Water Resources for the losses of millions of salmon and steelhead at the State Pumps in the Bay Delta Estuary because of the in-house working politically relationship. A**

**significant conflict of interest on the part of the State Water Resources Control Board and its staff.**

- 5. The Secretary for Resources for the State of California Mr. Lester Snow is in charge of the State Water Resources Control Board and other state agencies. Lester Snow was the former director of the California Department of Water Resources a short time ago. Another significant conflict of interest.**
- 6. For the people to obtain adequate and meaningful water quality certification conditions for the Oroville Project will be impossible because of the conflicts of interests and in-house working politically relationship. Consequently an independent administrative judge should be assigned to the hearing of August 3, 2010.**
- 7. I believe that Russ Kanz and the water quality certification staff do not have the historic experiences in dealing with water quality certification for the Oroville Project 2100 based on my historic experiences.**

**The following are specific water quality certification conditions that were overlooked by the staff of the Division of Water Rights (Russ Kanz et al) in said draft water quality certification:**

- (a) The Draft Water Quality Certification failed to disclose, evaluate, and mitigate the potential direct, indirect, and cumulative adverse effects to water quality in the Bay Delta Estuary resulting from the operations of the Oroville Project 2100. Water quality in the Bay Delta Estuary is poor. That is a well known fact. The draft Water Quality certification must be amended to include water quality protection for the Bay Delta Estuary. It must be noted that the point of storage is Oroville Dam and Reservoir on the main stem Feather River and the point of rediversion and use is the State Plumps in the Bay Delta Estuary. Order water quality studies to determine the condition of the Bay Delta Estuary and the water quality conditions that are necessary to improve the poor water quality in the Bay Delta Estuary resulting from the operation of the Oroville Project 2100 (DWR) and also FERC Project 2426 (DWR).**
- (b) The Draft Water Quality Certification failed to disclose, evaluate, and require mandatory daily reservoir levels at Oroville Reservoir to protect public boating and public boating safety during all water year types. The Draft Water Quality Certification is grossly deficient without providing for mandatory daily reservoir levels to protect public boating and also protect public boating safety during all water year types. It should be noted that the California Department of Water Resources has a bad habit of reducing reservoir levels at Oroville Reservoir without protection public boating and public**

**boating safety in all water year types. Order mandatory minimum daily reservoir levels at Oroville Reservoir to protect public boating and public boating safety.**

- (c) The draft water certification failed to disclose, evaluate, and provide minimum daily reservoir levels that protect the aquatic environment of Oroville Reservoir. Mandatory minimum reservoir levels are commonplace at FERC licensed reservoirs. Order minimum daily reservoir levels at Oroville Reservoir to protect aquatic resources in Oroville Reservoir.**
- (d) The Draft Water Quality Certification failed to disclose, evaluate, and mitigate water quality contamination resulting from E.Coli invading the surface waters of the Upper Feather River system resulting from cattle grazing on public lands managed by the US Forest Service in the Plumas National Forest and also private lands in Plumas County. See attachments. This is a major public health issue that must be mitigated to protect people that use the waters of Oroville Reservoir. Pursuant to federal statutes, order the US Forest Service to monitor E.Coli invading the waters of Oroville Reservoir resulting from all cattle grazing and allotments affecting the surface waters flowing into Oroville Reservoir. Pursuant to state water quality statutes, order Plumas County to monitoring E.Coli invading the waters of Oroville Reservoir resulting from cattle grazing on private lands affecting the surface waters that flow into Oroville Reservoir.**
- (e) The California Department of Water Resources never mitigated for pre-project Feather River endangered Spring-Run Chinook Salmon species below Oroville Dam and the Fish Barrier Dam. The Draft Water Quality Certification did not mitigate and provide improvements to project operations that will improve pre-project Chinook salmon species levels from 5,000 pre-project spring-run salmon to 5,000 post project levels. Order a management plan that will restore endangered Spring-Run Chinook salmon species to at least pre-project population levels of 5,000 fish.**
- (f) The water temperature requirement must be extended to the entire Feather River watershed below Oroville Dam because the Oroville Project affected the daily water temperatures for the entire Feather River watershed to the mouth of the Sacramento River below Oroville Dam. Order changes to the water temperature requirements in said water quality certification that providing water temperature requirements for cold water species from Oroville Dam in the Feather River to the mouth of the Sacramento River.**

- (g) All public facilities at the Oroville Project are required by the provisions of the Americans with Disability Act (ADA) to provide accessibility and accommodations for disabled people. Disabled people can be children women, men, the elderly, and war veterans, and disabled people do not need to be in wheelchairs to be disabled. The State Water Board receives federal funding and is subject to federal statutes and the ADA. Consequently the State Water Board must require compliance of the American with Disability Act at all public facilities at the Oroville Project 2100 without exception. The California Department of Water Resources has ignored request for information regarding whether all public facilities at the Oroville Project are accessible and can accommodate disabled people. Order the California Department of Water Resources to comply to the ADA and provide accessibility and accommodations for disabled persons at all public facilities at the Oroville Project 2100. I reference Legal Rights of Persons with Disabilities; November 2003; California Department of Justice.**
- (h) The draft and final Water Quality Certification must contain the legal methodology and requirements that will be used by the State Water Resources Control Board and its staff to ensure to the public that the State Water Resources Control Board and the Federal Energy Regulatory Commission will enforce all water quality conditions under the FERC License 2100 when violations occur. It should be noticed that when complaints are filed with the State Water Board and its staff against the California Department of Water Resources, the staff of the Division of Water Rights disregards the complaints because of the political working relationship..**
- (i) Finally the CEQA document prepared by the California Department of Water Resources was grossly deficient in violation of CEQA and its Guidelines because the CEQA document failed to disclose, evaluate, and mitigate the cumulative effects to water quality in the Bay Delta Estuary resulting from the operations of the Oroville Project 2100 and also the project operations of the California Aqueduct Project FERC 2426 (State Pumps). A significant and glaring violation of CEQA and its Guidelines. I reference case law regarding cumulative effects. Re-notice the final CEQA document to the public and disclose, evaluate, and mitigate cumulative impacts to water quality in the Bay Delta Estuary resulting from the operations of the Oroville Project 2100 and the California Aqueduct Project 2426.**

**Mitigate all of the above conditions with said recommendations in the final Water Quality Certification and revisit CEQA and its Guidelines again for compliance of CEQA and its Guidelines.**

**Place these formal comments into the records for the draft and final Water Quality Certification Document and the proposed subject hearing. I am available for direct testify provided the State Water Board and its staff honor my disability, which they have not in the past. I.e. Carmel River Hearing; Hearing Officer Art Baggett Jr., and Board counsel Buck Taylor. It is impossible to deal with bigots that manage state agencies.**

**Acknowledge receipt of these comments of the California Fisheries and Water Unlimited, and publish the comments on the Board's website.  
Respectfully Submitted**

**Signed by Robert J. Baiocchi**

**Robert J. Baiocchi, President  
California Fisheries and Water Unlimited  
California Non-Profit Corporation**

**Cc: To Jeanine Township, Clerk of the State Water Resources Control Board**

**Russ Kanz, Water Quality Certification staff**

**James Kassel, Assist Deputy Director**

**Marianne Aue, Attorney, State Water Resources Control Board**